Universal Fuels, Inc. *and* American Federation of Government Employees, AFL-CIO. Case 5-CA-14272

14 May 1984

DECISION AND ORDER

BY CHAIRMAN DOTSON AND MEMBERS ZIMMERMAN AND HUNTER

On 24 February 1983 Administrative Law Judge Stanley N. Ohlbaum issued the attached decision. The Respondent filed exceptions and a supporting brief, and the General Counsel and the Charging Party filed answering briefs.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions[1] and to adopt the recommended Order.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Universal Fuels, Inc., Patuxent River, Maryland, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

[1] In view of the fact that we agree with the judge that the Union did not have a conflict of interest disqualifying it from representing the Respondent's employees, we find it unnecessary to rely on his finding that the Respondent did not raise the issue in a timely manner.

Member Hunter agrees that the Union's representation of Government employees in other units, standing alone, is insufficient to establish a conflict of interest which precludes the Union from fairly representing the employees of the Respondent, a private sector employer. Member Hunter notes that the record evidence is insufficient to establish that the Union represents Government employees who perform the same work as that performed by the Respondent's employees. Member Hunter notes that the parties have stipulated that refueling services at the Naval Air Station have been performed by private contractors since at least 1966. In these circumstances, Member Hunter agrees with his colleagues that the evidence of conflict of interest here is insufficient to disqualify the Union from representing the Respondent's employees.

DECISION

PRELIMINARY STATEMENT; ISSUE

STANLEY N. OHLBAUM, Administrative Law Judge. This proceeding[1] under the National Labor Relations Act was litigated before me in Washington, D.C., with all parties represented by counsel throughout and afforded full opportunity to present evidence and contentions, as well as to file posttrial briefs received, after unopposed application by the Charging Party for time extension, by November 3, 1982. Record and briefs have been carefully considered.

The complaint alleges violation by Respondent of Section 8(a)(5) and (1) of the Act. The basic issue is whether Respondent Employer is, as it asserts, relieved of its statutory obligation to bargain with Charging Party Union (the Board-certified exclusive collective-bargaining representative of an appropriate unit of Respondent's employees) because of an alleged "conflict of interest" on the part of the Union.

Upon the entire record,[2] I make the following

FINDINGS AND CONCLUSIONS

I. JURISDICTION

At all material times, Respondent, an Alabama corporation with an office and place of business in Lexington Park, Maryland, has engaged in aircraft fuel transportation for the United States Navy at the Patuxent River, Maryland Naval Air Station. In the course and conduct of that business in the representative 12-month period ending March 16, 1981, Respondent performed aircraft fuel transport services valued in excess of $50,000 for the United States Navy at its said Patuxent River facility; and, during the same period, in its said business operations, Respondent purchased and received supplies worth over $2000, directly in interstate commerce from places outside Maryland.

I find that (as admitted in the answer) Respondent has at all material times been and is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7), and Charging Party Union a labor organization as defined in Section 2(5), of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A.

Essentially only questions of law are presented, the case having been submitted on stipulation (Jt. Exh. 1) and record colloquy, with documentary evidence received in part subject to cross-motions (upon which ruling was reserved) to strike them[3] from the record as

[1] Complaint issued by Board Regional Director for Region 5 on May 26 growing out of charge filed by Charging Party Union on April 19, 1982.

[2] Hearing transcript as corrected by my September 30, 1982 order on notice is incorporated into the record. As shown below, there was no testimony in the case.

[3] G.C. Exhs. 2 and 3 were received without objection, with the accompanying stipulation that they were passed at Charging Party Union's 1980 national convention; but Respondent questions their weight. G.C. Exhs. 1, 4, and 5 were received without objection. R. Exhs. 2-8-Ident., objected to by the General Counsel and the Charging Party as irrelevant, are received as indicated in the above paragraph in the text of this decision. The Charging Party's September 1, 1982 motion to revoke Respondent's subpoena duces tecum B-257278 and subpoena and testificandum and duces tecum B-257279 on Kenneth Blaylock as president of the Charging Party Union was, by reason of the stipulation of the parties (Jt. Exh. 1), rendered academic and was accordingly withdrawn, without prejudice to the Charging Party's contention that the subpoenaed documents are irrelevant.

In view of the disposition of this proceeding, under considerations explicated infra, the materials called for by the General Counsel's subpoenas duces tecum B-277981, B-277977, B-277980, and B-27782, to the

Continued

irrelevant, and offers of proof likewise objected to,[4] and upon the basis thereof cross-moving for summary judgment. All objections to identified exhibits are overruled. The parties' offers of proof are resolved by this decision.

It is undisputed that Respondent has refused, and continues to refuse, to recognize or bargain with its unit employees'[5] elected and Board-certified bargaining representative, the Charging Party herein. Respondent rests its refusal to recognize or bargain with the Union solely on its assertion that the Union has a "conflict of interest" disqualifying it from such representation (answer, par. VII; Tr. 16), that alleged "conflict of interest" being solely the Union's "position on the subject of contracting out."[6] Respondent does not claim that the Union "own[s] a competitor or any other types of confict of interest."[7]

For its part, Charging Party Union as well as the General Counsel concede[8] that the Charging Party has taken the position that "where work is performed by employees of the Federal government, that work should not be contracted out,"[9] at any rate "when it is not cost effective."[10] The foregoing is within the frame of reference of the Union's actual and conventional representation of Government contractors' employees.[11]

The parties' stipulation establishes that Charging Party Union currently represents approximately 1800 employees in the private sector, as well as U.S. Government employees performing aircraft refueling services; that the only private sector aircraft refueling service employees represented by Charging Party Union are those of Respondent at Patuxent River Naval Air Station; that Respondent, a private contractor which has provided aircraft refueling services at Patuxent River Naval Air Station since May 1, 1978, does so under contract with the U.S. Department of Defense; and that refueling services at Patuxent River Naval Air Station have been performed by private contractors since at least 1966.[12]

The parties' positions as developed in their stipulation and trial transcript colloquy, illumined by documentary evidence[13] and briefs, sufficiently present the issues so as to be ripe for decision without need for testimony.

B.

Analytically, Respondent Employer's asserted justification for its admitted refusal to recognize or bargain with the Board-certified elected bargaining representative of its employees has three distinct aspects: (1) protection of or concern for its employees, (2) protection of itself, and (3) timeliness. These will be severally addressed.

1. Employer's purported desire to protect its employees from the supposed folly of their choice of this particular union as their bargaining representative

In this regard, it must be recognized at the outset that, under the Act's statutory scheme, the choice of bargaining representative of employees is theirs and not that of their employer. If the choice is improvident, it may be corrected by them in various ways, such as their withdrawal from the union or their substitution of another or none. But this is a matter for them rather than their employer. As the Supreme Court instructed in *Brooks v. NLRB*, 384 U.S. 96 at 103 (1954):

> If the employees are dissatisfied with their chosen union, they may submit their own grievance to the

extent not already supplied, are deemed unnecessary here, and accordingly Respondent's petition (R. Exh. 1-Ident.) to revoke those subpoenas is dismissed as academic, as are the subpoenas themselves.

[4] The General Counsel and the Charging Party offered to prove, over Respondent's objection, that (1) Charging Party Union currently effectively represents employees of contractors with the U.S. Government, without "ulterior motive"; (2) Charging Party Union undertook to represent Respondent's unit employees, at the request of those employees, properly to represent them without ulterior motive; (3) Charging Party Union has no national policy of putting Government contractors, whose employees it represents, out of business; (4) many private employees as well as many Federal employees represented by Charging Party Union have become employees of Government contractors; (5) Respondent was or should have been aware of the alleged "conflict of interest" it now asserts, at the time of the Board representation proceeding (i.e., Case 5-RC-11445) culminating in the election (April 30, 1981) and Board certification (May 8, 1981) of Charging Party Union as Respondent's unit employees' bargaining representative, antedating the instant proceeding.

Respondent in turn offered to prove, over the General Counsel's and Charging Party's objection, that Charging Party Union represents U.S. Government employees performing some aircraft refueling services at Patuxent River Naval Air Station.

As indicated in the above paragraph in the text of this decision, the necessary issues raised by these offers of proof are resolved by this decision.

[5] I.e., all full and regular part-time employees employed by Respondent at the Naval Air Station at Patuxent River, Maryland, excluding all guards and supervisors as defined in the Act. Respondent's brief states that, after the Board's certification of the Union, a first (and only) negotiating meeting was held with the Union in Charlotte, North Carolina, on February 22, 1982; and that it was not until after the Union there presented Respondent with and Respondent received its contract proposals and Respondent indicated it would "study the proposals and forward the Union a written counter-proposal," (ibid), that Respondent discontinued all further bargaining.

[6] Statement Mr. Mitchell, Respondent's counsel, Tr. 17:

> The only kind of conflict of interest that we raise has been the AFGE's [i.e., Charging Party Union's] position, that the government, and in particular the Department of Defense and the military, should not contract out service jobs at military bases, which are the exact type jobs this company performs.

[7] Id.

[8] Id. at 17.

[9] Id. at 11 and 18.

[10] Id. at 11, 16-17.

[11] Id. at 20-21.

[12] Jt. Exh. 1.

[13] This shows that the Charging Party's officials have indeed expressed themselves—as could any person or union in exercise of First Amendment constitutional rights—in general opposition to "contracting out" under certain circumstances (many if not most other unions are, as is well known, similarly opposed to "contracting out" by private employers of their members), within the formal union policy (G.C. Exh. 2) "principle that public work which has traditionally been performed by public employees should continue to be performed by public employees, and that public work which has traditionally been performed by private employees should continue to be performed by private employees." It will be recalled that it is established by the parties' stipulation here (Jt. Exh. 1, par. 7), that the services in question at Patuxent Naval Air Station have been privately performed since at least 1966.

The Union's constitution (G.C. Exh. 4, art. III, sec. 1[a]) admits to membership not only employees of the United States Government but also "all other persons providing their personal services indirectly to the United States Government"—clearly including Respondent's unit employees here who elected to have it represent them.

> Board . . . . The underlying purpose of this statute [i.e., the Act] is industrial peace. To allow employers to rely on employees' rights in refusing to bargain with the formally designated union is not conducive to that end, it is inimical to it.[14]

And, as also indicated by the U.S. Court of Appeals in *NLRB v. Signal Mfg. Co.*, 351 F.2d 471 (1st Cir. 1965), cert. denied 382 U.S. 985 (1966):

> The right of employees to be represented by officials of their own choice doubtless must outweigh any principle of *persona non grata.*[15]

We according readily surmount, as a tenable justification for Respondent's refusal to bargain with its employees' elected bargaining representative, any concern, actual or pretended, by Respondent for its employees over the supposed folly of their choice, or Respondent's supposedly superior wisdom in these matters.

2. Employer's desire to protect itself from what it fears may be the adverse economic impact upon it of bargaining with this particular union

As to this, our point of departure is the fact that the Act itself, as explicitly set forth in its underlying legislative "Findings and Policies" (Act, Sec. 1), recognizes the "inequality of bargaining power" of employees vis-a-vis employers and is purposed to ameliorate that imbalance through the instrumentality of collective bargaining. Implicit, as well as explicit, therein is recognition of the inherent or basic economic tension between employers and employees. It is, therefore, well to remember that the basic frame of reference is not an economic vacuum in which the collective-bargaining representative of employees, on the one hand, and the employer, on the other hand, bear a bland and tensionless relationship to each other. On the contrary, their interests are to a large extent adversarial.

This would be true of *any* bargaining representative which Respondent's unit employees here may have selected to represent them, save possibly a "bargaining representative" of their employer's designation, choice, sponsorship, or support (sometimes denominated a "sweetheart union" and unlawful under the Act). Respondent's seemingly basic concern here that Charging Party Union "could through unreasonable demands make it unprofitable for UFI [i.e., Respondent Employer] to continue providing refueling services to the military" (R. Exh. 2) is not only conjectural but applicable as well to any other union with whom it may be required to deal. The same is true for its alleged apprehension that this Union may "create labor unrest . . . or even cause a work stoppage" (id.).

Respondent's argument that this particular Union has a definite financial stake to force Respondent out of business (id.) is also without merit, since (1) it is likewise speculative, (2) there is no reason to assume any other union's bargaining demands would be more favorable to Respondent or that any other union would not force Respondent to the wall if they were not met or reasonably compromised—even were this to be the test or a proper subject of inquiry, which of course it is not, (3) there is no inherent conflict of interest between Charging Party Union's representation of employees directly employed by the Government and employees working for employers carrying out contracts with or for the Government, nor has any such conflict been persuasively established on the record,[16] (4) there is no reason for assuming that, in the eventuality conjectured by Respondent, that if it should come about that it were forced out of business because it could not meet what it fears may be Charging Party Union's contract demands, its work would be awarded to Government employees represented by that union, and (5) it is conceded by Respondent (supra fn. 6 and accompanying text) that no competitive business relationship between itself and Charging Party Union exists here.

The rare instances in which the Board has regarded a union as unqualified or disqualified from representing certain unit employees have been limited to situations in which (1) the bargaining representative is in business competition with the employer,[17] (2) the bargaining representative is affiliated with a business competitor of the employer,[18] (3) the bargaining representative is affiliated directly with the employer,[19] or (4) the employer's supervisors play an active role in the bargaining representative;[20] or in which the proposed bargaining representative was on appropriate objection excluded by the Board in the preliminary stages of a representation petition, without being allowed to stand for election.[21]

It is clear that the instant case falls into none of these categories. to extend their closely delimited scope to a case, such as that here, would declare open season for sweeping, postelection, postcertification inquires at yet more Board hearings (with attendant appeals) at the

[14] To the same effect, see Chief Justice (then Circuit Judge) Burger in *Local 57 ILGWU v. NLRB*, 374 F.2d 295, 308 (D.C. Cir. 1967), cert. denied 387 U.S. 942 (1967); *North Shore University Hospital*, 259 NLRB 852 (1981); *Sierra Vista Hospital*, 241 NLRB 631 (1979).

[15] To the same effect, see *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1, 33 (1937); *Newspapers, Inc.*, 210 NLRB 8, 10 (1974), enfd. 515 F.2d 334 (5th Cir. 1975); *Canton Sign Co.*, 174 NLRB 906, 909 (1969), and case cited, enf. denied on other grounds 457 F.2d 832 (6th Cir. 1972); *NLRB v. Harris-Woodson Co.*, 179 F.2d 720, 723 (4th Cir. 1950).

[16] See fn. 13, supra; *Ojai Valley Community Hospital*, 254 NLRB 1354 (1981); *Gino Morena Enterprises*, 181 NLRB 808 (1970). In any event, such a possibility is at best speculative and conjectural.

[17] *St. John's Hospital*, 264 NLRB 990 (1982) (bargaining representative of employer's nurses also owns and operates a nurses' registry; petition for election and certification dismissed); *Visiting Nurses Assn.*, 254 NLRB 49 (1981), id. *Bausch & Lomb Optical Co.*, 108 NLRB 1555 (1954) (competing union business established *after* certification).

[18] *R & M Kaufmann v. NLRB*, 471 F.2d 301 (7th Cir. 1972), cert. denied 411 U.S. 906 (1973) (employer had raised contention in underlying *petition* for election proceeding in opposing union candidacy for certification); *Bambury Fashions*, 179 NLRB 447 (1969) (*petition* for election and certification dismissed); *Bausch & Lomb Optical Co.*, 108 NLRB 1555 (1954), see observation supra fn. 17.

[19] *Teamsters Local 249*, 139 NLRB 605 (1962), *petition* for election and certification dismissed on objection of *another union as intervenor.*

[20] *Nassau & Suffolk Contractors' Assn.*, 118 NLRB 174, 187 (1957), Sec. 8(a)(2) context. But cf. *North Shore University Hospital*, 259 NLRB 852 (1981), motion to revoke certification and cases cited; *Sierra Vista Hospital*, 241 NLRB 631 (1979), motion to revoke certification.

[21] *St. John's Hospital*, 264 NLRB 990 (1982), and see observations sub other cases cited supra fns. 17-20.

behest of every employer into the supposed bargaining objectives and tenacity of every union before recognizing or bargaining with it, notwithstanding the Act's command, the Board-conducted election, and the Board's formal certification.

What Respondent's concern, in this aspect, amounts to is its desire to be rescued from what it fears may be the hard bargain Charging Party Union may drive. This, however, is not a matter for the Board's cognizance. It is rather, a potential problem, should it arise, to be faced by Respondent—as it is by other employers—in its negotiations with the bargaining representative, within the frame of reference of the ultimate saving proviso of the Act that Respondent is not constrained "to agree to a proposal or [to make] a concession."

For these reasons, it is determined that Respondent is not excused from recognizing and bargaining with the Board-certified Union here based on its assertions of conflicting interest and fear of the possibility of economically costly outcome from its point of view.

3. Timeliness

It is to be noted that Respondent failed to raise its current contention that the Charging Party is disqualified by reason of "conflict of interest" from representing Respondent's unit employees, at the Board representation case (5-RC-11445) antedating the instant proceeding.[22] Assuredly the contention could have been, and it would seem certainly should have been more properly raised there, by way of preliminary objection, as in *St. John's Hospital,* 264 NLRB 990 (1982), and other cases cited supra.

It is hornbook law that an issue which was not but could have been litigated in an earlier related case encompassing the issue is laid to rest by the outcome of the earlier case. As recently reiterated in *NLRB v. Southeast Assn. for Retarded Citizens*, 666 F.2d 428 at 432 (9th Cir. 1982), quoting from *Fall River Savings Bank v. NLRB*, 649 F.2d 50, 58-59 (1st Cir. 1981):

> Under the Board's longstanding rule of practice, *see* 29 C.F.R. "sec. 102.67(f), which the courts have repeatedly endorsed, a party to an unfair labor practice proceeding may not raise an issue which was or could have been litigated in the prior representation proceeding, in the absence of newly discovered or previously unavailable evidence or special circumstances."[23]

For this additional reason, it is determined that the issue of the Charging Party's alleged disqualification to act as Respondent's employees' bargaining representative, not having been raised by Respondent in the earlier representation proceeding, may not now be raised to justify Respondent's refusal to bargain with the duly elected and formally Board-certified bargaining representative.

[22] Nor has Respondent at any time sought to reopen that proceeding or to vacate the Board certification of the Charging Party as its unit employees' bargaining representative.

[23] See also *Pittsburgh Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941).

C.

It is accordingly, on the basis of the foregoing, determined that Respondent's refusal to recognize and bargain with Charging Party Union, as Respondent's unit employees' duly elected and Board-certified bargaining representative, was and is without justification and in violation of Section 8(a)(5) and (1) of the Act.

On the foregoing findings and the entire record, I state the following

CONCLUSIONS OF LAW

A. Jurisdiction is properly asserted here.

B. By failing and refusing to bargain collectively with American Federation of Government Employees, AFL-CIO, as the duly elected and Board-certified exclusive bargaining representative of the following appropriate collective-bargaining unit of Respondent's employees, Respondent has failed and refused and continues to fail and refuse to bargain collectively as required by Section 8(a)(5) of the National Labor Relations Act thereby violating said Section 8(a)(5), and has, further, interfered with, restrained, and coerced employees in the exercise of their rights under Section 7 of the Act, and continues so to do, in violation of Section 8(a)(1) of the Act.

> All full and regular part time employees employed by Respondent at the Naval Air Station at Patuxent River, Maryland, excluding all guards and supervisors as defined in the Act.

C. Said unfair labor practices and each of them, violative of the Act as aforesaid, have affected, affect, and unless permanently restrained and enjoined will continue to affect, commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Respondent should be ordered to cease and desist from continuing to violate the Act in the respects found, and to bargain collectively in good faith with the Charging Party as its unit employees' Board-certified exclusive bargaining representative, as of the date of its certification by the Board (May 8, 1981).[24] In order to avoid injustice to the unit employees and the Charging Party, and to avoid rewarding Respondent for its violation in flouting the Board's certification, and in accordance with Board policy and precedent[25] the certification period should be extended for a period of 1 year from the time when, on timely demand, Respondent commences to bargain with the Union in good faith in compliance with the Order herein. Finally, Respondent should be required to post the usual Notice to Employees.

[24] Cf. *Trading Port*, 219 NLRB 298, 300-301 (1975); *NLRB v. Eagle Material Handling*, 558 F.2d 160, 163-164, 168 (2d Cir. 1977); *Ann Lee Sportswear v. NLRB*, 543 F.2d 739, 744 (10th Cir. 1976).

[25] *King Radio Corp.*, 177 NLRB 1051, 1080 (1968), enfd. 416 F.2d 569 (10th Cir. 1969), cert. denied 397 U.S. 1007 (1970); *B. Brown Associates*, 224 NLRB 929, 940 (1976); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (10th Cir. 1965); *Lamar Hotel*, 140 NLRB 226, 228 (1962), enfd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964); *Mar-Jac Poultry Co.*, 136 NLRB 785, 787 (1962).

On the foregoing findings of fact and conclusions of law and or the entire record, I issue the following[26]

ORDER

The Respondent, Universal Fuels, Inc., Patuxent River, Maryland, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to bargain collectively in good faith, as of May 8, 1981, with American Federation of Government Employees, AFL-CIO, as the Board-certified exclusive bargaining representative of the following appropriate unit of Respondent's employees, and failing to embody in a signed contract any understanding reached:

> All full and regular part time employees employed by Respondent at the Naval Air Station at Patuxent River, Maryland, excluding all guards and supervisors as defined in the Act.

(b) In any like or related manner failing or refusing to bargain or interfering with, restraining, or coercing employees in the exercise of their right to self-organization; to bargain collectively through representatives of their own choosing; to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection; or to refrain from any or all such activities.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, recognize and bargain collectively in good faith with American Federation of Government Employees, AFL-CIO, as of May 8, 1981, as the exclusive bargaining representative of Respondent's employees in the aforementioned appropriate collective-bargaining unit, with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment, and embody in a signed agreement any understanding reached. Said bargaining representative's cerfification with regard to said unit is extended for a period of 1 year from the date when Respondent commences to bargain in good faith.

(b) Post at its premises in Lexington Park, Maryland (or any current relocation thereof) copies of the attached notice marked "Appendix."[27] Copies of the notice, on forms provided by the Regional Director for Region 5, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

After a hearing at which we had full opportunity to present our evidence and arguments, the National Labor Relations Board has determined that we have violated the National Labor Relations Act, because of our failure and refusal to recognize and bargain collectively with American Federation of Government Employees, AFL-CIO, as the exclusive bargaining representative of our employees in the bargaining unit set forth below; and we have been ordered to post this notice and do what it says.

WE WILL NOT fail or refuse to recognize and bargain collectively in good faith with American Federation of Government Employees, AFL-CIO, as of May 8, 1981, the date of its certification by the National Labor Relations Board as the exclusive bargaining representative of the following appropriate collective-bargaining unit of our employees, with respect to said employees' rates of pay, wages, hours of employment, and other terms and conditions of employment, or to embody in a signed contract any understanding reached:

> All full and regular part time employees employed by us at the Naval Air Station at Patuxent River, Maryland, excluding all guards and supervisors as defined the Act.

WE WILL NOT in any like or related manner fail to recognize or bargain with the above Union, nor will we thereby or in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their rights under the National Labor Relations Act.

WE WILL, on request, recognize and bargain collectively, as of May 8, 1981, with the above Union as the exclusive bargaining representative of our employees in the above collective-bargaining unit, with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment, and WE WILL embody in a signed contract any understanding reached.

UNIVERSAL FUELS, INC.

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[26] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[27] If this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."